

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CHARLES PATRICK MAY,)	CASE NO. 4:10CV1533
)	
Plaintiff,)	JUDGE JOHN R. ADAMS
)	
-vs-)	
)	<u>MEMORANDUM OF OPINION</u>
MICHAEL J. ASTRUE,)	<u>AND ORDER</u>
Commissioner of Social Security)	
)	
Defendant.)	

The Social Security Administration denied Plaintiff's claim for Period of Disability and Disability Insurance Benefits in the above-captioned case. Plaintiff sought judicial review of the Commissioner's decision, and this Court referred the case to Magistrate Judge Greg White for preparation of a report and recommendation pursuant to 28 U.S.C. § 636 and Local Rules 72.2(b)(1). The Magistrate Judge submitted a report and recommendation (Doc. 23) finding that the Commissioner's decision failed to analyze whether Plaintiff's physical impairment met or equaled a Listing under section 1.00. Because this step of the analysis is required, the Magistrate Judge determined that the Commissioner's decision was not supported by substantial evidence and recommended that the decision be vacated and the case remanded pursuant to 42 U.S.C. §405(g), sentence four.

Fed. R. Civ. P. 72(b)(2) provides that the parties may object to a report and recommendation within fourteen (14) days after service. Defendant objected to the report and

recommendation on June 13, 2011. Doc. 24. Plaintiff timely replied to Defendant's objection. Doc. 25.

This Court has completed a de novo review of the record, the report and recommendation, and case law, including the Circuit opinion *Reynolds v. Comm's of Soc. Sec.*, 2011 WL 1228165 (6th Cir. Apr. 1, 2011), which closely tracks this matter. It is clear that the Magistrate Judge also reviewed and relied on *Reynolds* in reaching his decision. Defendant's objection does not allege error in Magistrate Judge White's analysis. Instead, Defendant's objection is merely a restatement of its argument on the merits. Any further review by this Court would be a duplicative and inefficient use of the Court's limited resources. *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

Accordingly, the Court adopts Magistrate Judge White's report and recommendation in its entirety. Plaintiff's motion to remand based on sentence six of 42 U.S.C. §405(g) (Doc. 16) is DENIED. However, pursuant to 42 U.S.C. §405(g) sentence four, the Commissioner's decision is VACATED and this matter is remanded for further analysis and a new decision. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Dated: August 10, 2011

/s/ John R. Adams
UNITED STATES DISTRICT JUDGE